

June 22, 1934

To His Excellency, the Governor,  
and the Honorable Council

Re: Vouchers -- Fact-Finding Committee

Gentlemen:

The Committee created by Laws of 1934, chapter 1, section 4, "shall explore the present procedures for awarding land damages resulting from the laying out or alteration of Class I or Class II highways <sup>included</sup> or highways within the state ~~shall~~ in the national system of interstate highways", and "Shall also review in the light of present procedures all land damage awards in excess of Ten Thousand Dollars which have been made in the six months prior to the passage of this act . . .", and "in general have the usual powers of a legislative committee". The statute provides further, "There is hereby appropriated out of highway funds as much money as may be necessary to cover the expenses of the committee".

If clerical help is required for the committee to perform its appointed function, including the requirement that the committee "keep full records of its studies", "hold public hearings, request information from governmental departments and agencies" and "require the appearance of witnesses", money to pay for the same is "necessary to cover the expenses of the committee".

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As to mileage, the provisions of s. 3, c. 248, Laws of 1953 apply. The Legislature which met in special session in 1954 is the Legislature which was elected for the 1953 biennium. The rate of reimbursement is eight cents per mile.

The remaining question is whether the provisions of s. 4, c. 1, Laws of 1954, appropriating money to cover these expenses "out of highway funds" constitute a diversion contrary to the Hayden-Cartwright Act, so-called, officially known as the Federal-Aid Road Act, 23 U. S. C. A. paragraphs 1-25, or the provisions of New Hampshire Constitution, Part second, Section 6-a.

Directly related to highways, the research of the committee created by the 1954 Special Session represents a temporary assumption by the Legislature of certain details of highway administration, planning and economics, and bears direct relation to highway purposes. The activities of this committee are entirely consonant with the provisions of New Hampshire Constitution, Part Second, Article 6-a.

With reference to the Federal Road Aid Act, Regulation 1.18 made by the Secretary of Commerce by authority thereof provides as follows:

"1.18. Diversion of gasoline and motor-vehicle taxes; reduction of apportionment. If the Secretary shall find at any time that lesser amounts of the revenues derived from State motor-vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators in any State are required by its laws to be applied to highway purposes than were required to be so applied by the laws of such State on June 18, 1934, he shall take such action as he may deem necessary to comply with the provisions of section 12 of the act of June 18, 1934 (48 Stat. 995), by reducing the apportionment of Federal funds to such State by not to exceed one-third of the amount to which it otherwise would be entitled for any fiscal year in which such finding may be made."

The Act requires each state to maintain at its own expense a state highway department having adequate powers and suitably equipped and organized to discharge the duties required, and no part of the cost of maintaining the central office of a state highway department or the central office of any public-maintained<sup>ly</sup> engineering organization is permitted to be paid with Federal funds. Accordingly, the expenses of the special Fact-Finding Committee are not properly chargeable to Federal funds but are a charge upon the funds appropriated by chapters 174, 248, and 249 of the Laws of 1953.

The expenditures of this committee, being expressly for highway purposes, do not constitute a diversion of highway funds within the meaning of the Federal Act or regulation. On the contrary, section 10 of Public Law 350, 83rd Congress, approved May 6, 1954, authorizes the Secretary of Commerce "to engage in research on all phases of highway. . . financing, . . . including the effect thereon of state laws, . . . in cooperation with any other branch of the Government, State, agency, authority, association, institution, corporation (profit or non-profit) or any other organization or person." This provision of the law is probably not available to New Hampshire for the particular research of this committee but I cite this provision of the act to indicate the compatibility of the purposes of this committee with the Act itself.

It appears to me to be entirely proper for the Commissioner of Public Works and Highways to manifest properly prepared vouchers to the

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Comptroller for payment from that portion of the highway fund devoted to administration, planning and economics at the headquarters level, and you may in your discretion so direct the Commissioner of Public Works and Highways.

Respectfully,

George F. Nelson  
Assistant Attorney General